

## MANDATORY STANDARDS FOR DESIGNATION OF CETCs (CC DOCKET 96-45)

- **CETCs Pose the Single Greatest Threat to the Fund:** “The size of the universal service fund . . . would not be a major concern if it were not for the dramatic growth in CETC payments over the last two years and the potential expansion in the next few years.”<sup>1</sup>
  - ❖ CETC funding has more than doubled every year for the last five years.
  - ❖ Wireless CETCs account for the vast majority of the increase in CETC support.
- **The Commission should adopt mandatory, uniform standards that states must use to determine if CETC designation would serve the public interest.**
  - ❖ The *Virginia Cellular* and *Highland Cellular* decisions were a start, but not sufficient.
  - ❖ Permissive standards do not satisfy the FCC’s statutory mandate to ensure that support is being used only for the purpose for which it is intended.
  - ❖ State commissions may not always have the ability or incentive to ensure that the federal universal service fund is used as the Communications Act requires.
- **The FCC has not only the legal authority but the legal obligation to enact clear, binding national standards.**
  - ❖ The Communications Act grants states authority to designate CETCs in rural areas only to the extent that such designation is consistent with the public interest. 47 U.S.C. § 214(e)(2).
  - ❖ The FCC has the authority to provide direction regarding when CETC designations serve the public interest with reference to the universal service principles set forth in the Act. It is the FCC’s responsibility under § 254(e) to ensure that federal funds are used *only for the provision, maintenance and upgrading of facilities and services for which the funds were intended*.
  - ❖ The Communications Act authorizes the states to issue their own regulations to preserve and advance universal service, but only if they are consistent with the FCC’s rules. 47 U.S.C. § 254(f). While the states have authority to adopt *more* stringent standards, it is the FCC’s obligation to set a baseline for designations.
  - ❖ The Communications Act names the FCC as the steward of the universal service fund. Recent investigations the E-rate program demonstrate the need for vigorous federal oversight to guard against abuse.

---

<sup>1</sup> Legg Mason Wood Walker, Inc., Universal Service Financial Analysis, June 25, 2004.

**MANDATORY STANDARDS FOR DESIGNATION OF CETCS  
(CC DOCKET 96-45)**

- **The *Virginia Cellular* and *Highland Cellular* orders establish only a bare minimum of CETC requirements.** In the *Virginia Cellular* proceeding, for example, the CETC was required to:
  - ❖ Comply with any and all minimum local usage requirements adopted by the FCC (for which there currently are none), and offer unspecified local calling plans that include varying levels of minutes per month.
  - ❖ Provide service to requesting customers in the service area in which it is designated as an ETC, and take certain steps to modify customer equipment or network facilities if service cannot be provided.
  - ❖ Use its universal service offering to construct new cell sites in sparsely populated areas outside its existing network. The applicant stated, however, that its plans may “evolve over time.”
  - ❖ Report annually on: (1) customers requesting service in Virginia Cellular’s designated service area to whom it refused service due to a lack of coverage; (2) progress in achieving its build-out plans; (3) number of complaints per 1000 handsets.
  - ❖ Comply with CTIA’s “Consumer Code for Wireless Services.”
- **The commitments set forth in the “CTIA Consumer Code” do nothing to either preserve or advance universal service.** The Code merely lists ten non-binding commitments that boil down to (1) not violating the law and (2) marketing tools that any carrier would normally employ:
  - ❖ Four items relate to disclosure of rates, terms and conditions in customer contracts, bills and marketing, and another concerns adherence to the terms of the customer contract – Failure to comply with these commitment would be unlawful. *No mention is made of ensuring that rates are affordable.*
  - ❖ Commitments to make available maps of the carrier’s service area, provide access to customer service reps, and offer a 14-day trial offering are marketing initiatives that benefit the carrier. *There is no commitment to offer service to any customer or area the carrier does not already serve, nor to expand or improve upon its services.*
  - ❖ Two other items also are commitments merely to comply with existing law — responding to complaints from customers and government agencies, and protecting customer proprietary network information. *There is no offer to assume the responsibilities of a carrier-of-last-resort in the markets for which funding is received.*

**MANDATORY STANDARDS FOR DESIGNATION OF CETCs  
(CC DOCKET 96-45)**

- **In addition to the *Virginia Cellular* standards, the Commission should adopt rules that:**
  - ❖ Require CETCs to serve the rural ILEC's entire study area, through a combination of their own facilities and resale.
  - ❖ Require CETCs to invest in their networks and expand their facilities-based footprint within the area for which support is intended.
  - ❖ Require CETCs to take on the obligations of a carrier-of-last-resort, for example: providing service upon request, providing E911 and directory assistance services, and offering equal access where the ILEC is required to do so.
  - ❖ Require that CETCs offer a basic local calling plan at an affordable price, as determined by the state.
  - ❖ Require that CETCs comply with the same state customer service, service quality, and consumer protection obligations as the ILEC.
  - ❖ Require that support fund only services that primarily are used within the service area for which the funding is intended. This issue is of particular importance for wireless CETC support.
- **It is essential that the FCC require annual reporting from CETCs to demonstrate compliance with each of the above requirements, and that the FCC provide a mechanism to enforce non-compliance.**